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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

THOMAS E. FRANKOVICH,

Plaintiff,

v.

CAL FED BANK,

Defendant.

CASE NO.:

**COMPLAINT FOR INJUNCTIVE RELIEF
AND DAMAGES**

1ST Cause of Action: For Denial of Access by a Public Accommodation in Violation of the Americans with Disabilities Act of 1990 (42 U.S.C. §12101, et seq.)

2nd Cause of Action: For Denial of Full and Equal Access in Violation of California Civil Code §§54, 54.1 and 54.3

3rd Cause of Action: For Denial of Accessible Sanitary Facilities in Violation of California Health & Safety Code §19955, et seq.

4th Cause of Action: For Denial of Access to Full and Equal Accommodations, Advantages, Facilities, Privileges and/or Services in Violation of California Civil Code §51, et seq. (The Unruh Civil Rights Act)

DEMAND FOR JURY

1 Plaintiff, Thomas E. Frankovich ("Plaintiff"), complains of Defendant Cal Fed Bank
2 ("Defendant") and alleges as follows:

3 **INTRODUCTION**

4 1. This is a civil rights action for discrimination against persons with physical
5 disabilities, of which class Plaintiff and the disability community are members, for failure to
6 remove architectural barriers structural in nature at Cal Fed Bank which is the property
7 owner and lessor to Citi Bank and Hamed Javadi DDS. This bank/professional building is
8 a place of public accommodation, thereby discriminatorily denying Plaintiff and the class of
9 other similarly situated persons with physical disabilities access to, the full and equal
10 enjoyment of, opportunity to participate in, and benefit from, the goods, facilities, services,
11 and accommodations thereof. Plaintiff seeks injunctive relief and damages pursuant to the
12 Americans with Disabilities Act of 1990, 42 U.S.C. §12101, et seq.; California Civil Code
13 §§51, 51.5 and 54, et seq.; and California Health & Safety Code §19955, et seq.

14 2. Plaintiff brings this action acting as a "private attorney general" privatizing
15 enforcement of the American with Disabilities Act of 1990 ("ADA") without the American
16 taxpayer(s) bearing the financial tax burden for such action.

17 3. Plaintiff is a person with physical disabilities who, on or about January 13,
18 2022, January 25, 2024, and May 10, 2024 (and deterred thereafter), was an invitee, guest,
19 patron, customer at the Cal Fed Bank property, which leases the subject building to Citi
20 Bank and Hamed Javadi DDS, in the City of San Rafael, California. At said time(s) and
21 place, Defendant failed to provide proper legal access to the second floor or the Office of
22 Hamid Javadi D.D.S., which is a "public accommodation" and/or a "public facility" including,
23 but not limited to staircases (two (2)) and elevator. The denial of access was in violation of
24 both federal and California legal requirements, and Plaintiff suffered violation of his civil
25 rights to full and equal access and was embarrassed and humiliated.

JURISDICTION AND VENUE

4. This Court has jurisdiction of this action pursuant to 28 U.S.C. §1331 for violations of the Americans with Disabilities Act of 1990, 42 U.S.C. §12101, et seq. Pursuant to pendant jurisdiction, attendant and related causes of action, arising from the same nucleus of operative facts and arising out of the same transactions, are also brought under parallel California law, whose goals are closely tied with the ADA, including but not limited to violations of California Civil Code §51, et seq. and §54, et seq., California Health & Safety Code §19955 et seq., including §19959; and California Building Code.

5. Venue is proper in this court pursuant to 28 U.S.C. §1391(b) and is founded on the facts that the real property which is the subject of this action is located at/near 666 3rd Street, in the City of San Rafael, County of Marin, State of California, and that Plaintiff's causes of action arose in this county.

PARTIES

6. Plaintiff is a "physically handicapped person," a "physically disabled person," and a "person with physical disabilities" (hereinafter the terms "physically disabled," "physically handicapped" and "person with physical disabilities" are used interchangeably, as these words have similar or identical common usage and legal meaning, but the legislative scheme in Part 5.5 of the Health & Safety Code uses the term "physically handicapped persons" and the Unruh Civil Rights Act, §§51, 51.5, 54 and 54.1, and other statutory measures refer to protection of the rights of "physically disabled persons"). Plaintiff is afflicted with Paroxysmal Nocturnal Hemoglobinuria PNH which is a disease that attacks the red blood cells denying oxygen to muscles and internal organs; Diabetes; "Left drop foot" prior to and after an unsuccessful Laminectomy. Plaintiff relies primarily on a "walking stick" and occasionally a walker to travel about in public. Consequently, Plaintiff is a member of that portion of the public whose rights are protected by the provisions of

1 Health & Safety Code §19955, et seq. (entitled “Access to Public Accommodations by
2 Physically Handicapped Persons”) and the protections of the Unruh Civil Rights Act, Civil
3 Code §§51 and 51.5 the Disabled Persons Act, Civil Code §54, and the Americans with
4 Disabilities Act, 42 U.S.C. §12101, et seq.

5 7. DEFINITIONS:

6 a. ADAAG - The Americans with Disabilities Act Accessibility Guidelines
7 of 1990; and 2010 ADA Standards

8 b. 2010 ADA STANDARDS - The revised regulations for Title II and III of
9 the Americans with Disabilities Act of 1990 in the Federal Register as of September 15,
10 2010;

11 c. ARCHITECTURAL BARRIERS - Architectural barriers are physical
12 features that limit or prevent people with disabilities from obtaining the goods or services
13 that are offered. They can include but are not limited to the following examples: parking
14 spaces that are too narrow to accommodate people who use wheelchairs; a step or steps
15 at the entrance or to part of the selling space of a store; round doorknobs or door hardware
16 that is difficult to grasp; aisles that are too narrow for a person using a wheelchair; electric
17 scooter, or a walker; a high counter or narrow checkout aisles at a cash register, and fixed
18 tables in eating areas that are too low to accommodate a person using a wheelchair or that
19 have fixed seats that prevent a person using a wheelchair from pulling under the table.

20 Excerpted from the “ADA Guide for Small Businesses” with an
21 interlineation modification. <http://www.ada.gov/smbustxt.htm>. (The descriptive use of the
22 word “barriers” as used herein is synonymous with architectural barriers).

23 d. ELEMENTS - An architectural or mechanical component of a building,
24 facility, space, or site (e.g., telephone, curb ramp, door, flush valve, drinking fountain,
25 seating, or water closet, toilet seat, dispensers) and/or placement or lack thereof.

1 e. CATEGORICAL ARCHITECTURAL BARRIERS - Are elements and
2 facilities which are or can be architectural barriers standing alone or in combination with
3 one another where the element(s)/facility(s) is/are noncomplying or where the combination
4 thereof creates a category. For example: such as a parking lot, entrance, restroom, lobby,
5 guest room, dining area.

6 f. PHYSICAL FEATURES - Are synonymous with "Elements."

7 g. FACILITY - All or any portion of buildings, structures, site
8 improvements, complexes, equipment, roads, walks, passageways, parking lots, or other
9 real or personal property located on a site.

10 h. ENTRANCE - Any access point to a building or portion of a building or
11 facility used for the purpose of entering. An entrance includes the approach walk, the
12 vertical access leading to the entrance platform, the entrance platform itself, vestibules if
13 provided, the entry door(s) or gate(s), and the hardware of the entry door(s) or gate(s).

14 i. CLEAR FLOOR SPACE - The minimum unobstructed floor or ground
15 space required to accommodate a single, stationary wheelchair and occupant.

16 j. ACCESSIBLE ROUTE - A continuous unobstructed path connecting
17 all accessible elements and spaces of a building or facility. Interior accessible routes may
18 include corridors, floors, ramps, elevators, lifts, and clear floor space at fixtures. Exterior
19 accessible routes may include parking access aisles, curb ramps, crosswalks at vehicular
20 ways, walks, ramps, and lifts.

21 k. PATH OF TRAVEL - A continuous path connecting all elements and
22 spaces of a building or facility.

23 l. NON-COMPLYING - Not complying with ADAAG and/or the "Readily
24 Achievable Standard" of 28 CFR §36.304.

25 ///

PRELIMINARY FACTUAL ALLEGATIONS

8. Plaintiff is a “person with physical disabilities,” as defined by all applicable California and United States laws. Plaintiff is afflicted with Paroxysmal Nocturnal Hemoglobinuria PNH which is a disease that attacks the red blood cells denying oxygen to muscles and internal organs; Diabetes; “Left drop foot” prior to and after an unsuccessful Laminectomy. Plaintiff relies primarily on a “walking stick” and occasionally a walker to travel about in public.

9. Citi Bank Building, is a bank and professional office building, owned by Defendant located at/near 666 3rd Street, San Rafael, California (“Facility”). The Facility, its staircases (two (2)) and elevator, and its other facilities are each a “place of public accommodation or facility” subject to the barrier removal requirements of the Americans with Disabilities Act. On information and belief, the Facility has, since July 1, 1970, undergone “alterations, structural repairs and additions,” each of which has subjected the Facility, its two (2) staircases and elevator to disability access requirements per the Americans with Disabilities Act Accessibility Guidelines (ADAAG), and the California Building Code.

10. Defendant CAL FED BANK is the owner of the real property (land and building) located at or near 666 3rd Street, San Rafael, California.

11. Defendant, and its operators, tenants and/or sublessors and/or lessees, of the public accommodation known as Citi Bank Building, located at/near 666 3rd Street, San Rafael, California, or of the building and/or buildings which constitute said public accommodation.

12. At all times relevant to this complaint, Defendant owns and operates in joint venture the subject Facility as a public accommodation. This Facility is open to the general public and conducts business therein. The Facility is a “public accommodation” or “public

1 facility” subject to the requirements of California Civil Code §§51, 51.5 and 54, et seq.,
2 Health and Safety code §19955, et seq., and the ADA, 42 U.S.C. §12101, et seq.

3 13. At all times relevant to this complaint, Defendant is jointly and severally
4 responsible to identify and remove architectural barriers at the Facility pursuant to Code of
5 Federal Regulations title 28, section 36.201(b), which states in pertinent part:

6 **§36.201 General**

7 (b) Landlord and tenant responsibilities. Both the landlord who owns
8 the building that houses a place of public accommodation and the tenant
9 who owns or operates the place of public accommodation are public
10 accommodations subject to the requirements of this part. As between the
11 parties, allocation of responsibility for complying with the obligations of this
12 part may be determined by lease or other contract.

13 28CFR §36.201(b)

14 14. At all times stated herein, Defendant, with the knowledge that it had a
15 continuing obligation to identify and remove architectural barriers where it was readily
16 achievable to do so, failed to adopt a transition plan to provide better and/or compliant
17 access to the subject accommodation. In this instance one or a combination of the following
18 elements constituted architectural barrier(s) the nature of or lack of signage, accessible
19 routes of travel, entrances, dining areas, guest facilities, sanitary facilities non complying,
20 some encountered by Plaintiff resulting in an adverse experience.

21 15. At all times referred to herein and continuing to the present time, Defendant
22 advertised, publicized and held out the subject public accommodation as being
23 handicapped accessible and handicapped usable.

24 16. At some of the times stated herein, Plaintiff was in San Rafael, for the
25 purposes of: dental work under the care of Hamin Javadi D.D.S., a Periodontist, and to visit

1 friends in Tiburon where Plaintiff was a resident for over twenty (20) years.

2 17. On or about January 13, 2022, January 25, 2024, and May 10, 2024, Plaintiff
3 was an invitee and guest at the subject Building, second floor, Hamid Javadi D.D.S., for
4 purposes of dental work.

5 18. On or about January 13, 2022, Plaintiff encountered the following
6 architectural barriers at/in the Citi Bank Building Facility and as a legal result had the
7 following adverse experiences. There are two (2) staircases serving the second floor. One
8 is off the parking lot next to the elevator. The handrail did not extend sufficiently past each
9 landing; or floor. The elevator has a history of malfunctioning in this two (2) story building.
10 It only services the Dental Offices of Hamid Javadi D.D.S. (Marin Reconstructive
11 Periodontics) who occupies the entire second floor.

12 19. On or about January 13, 2022, Plaintiff encountered the following
13 architectural barriers at/in the inaccessible staircase(s) and elevator and as a legal result
14 had the following adverse experiences: difficulty and discomfort climbing the stairs and
15 balancing at the handrail returns on the landing and second floor; coming and going. While
16 the elevator was inoperable on the first floor there was no signage to call the Javadi office
17 on the second floor to request they send the elevator down. Plaintiff, upon leaving the
18 Javadi office on the second floor, learned that the elevator could be sent down to the first
19 floor.

20 20. Therefore, at said time(s) and place, Plaintiff encountered the following
21 architectural barriers as stated herein or lack thereof and some “elements” or “facilities”
22 which in and of themselves or in combination constituted architectural barriers, some
23 categorical in nature resulting in denial of the proper and legally required access to a public
24 accommodation to persons with physical disabilities and causing Plaintiff to experience one
25 or a combination of discomfort, difficulty, embarrassment.

21. On or about January 25, 2024 and May 10, 2024 Plaintiff had encountered the same architectural barriers and experienced the same difficulty as on the January 13, 2022 visit.

SIGNAGE - lack of a disability sign that states in substance "If elevator is not operating on the first floor, call Dr. Javadi (415) 392-1265 on second floor to send the elevator down to the first floor."

STAIRCASE(S) - lack of extended handrails on each of the two (2) existing staircases.

IN GENERAL - Lack of signage, policies, procedures and guidelines to ensure the person(s) with disabilities to the maximum extent possible have an opportunity to share in the same goods, services and opportunities as those afforded to able-bodied persons;

On personal knowledge, information and belief, other public facilities and elements too numerous to list were inaccessible to Plaintiff and for use by other persons with physical disabilities similarly situated.

LEGAL RESULT OF ENCOUNTERING FOREGOING ARCHITECTURAL BARRIERS

Therefore, as a legal result of encountering each of said elements, Plaintiff experienced one, all, or a combination of the following difficulties: stress, strain, difficulty, and discomfort to his upper extremities in attempting to and/or using said stair case elements also causing anxiety, disappointment and embarrassment.

22. At all time(s) as stated herein, Plaintiff encountered architectural barrier(s) as stated herein and/or had personal knowledge of said barrier(s) and knew it would be a futile gesture to attempt to overcome it/them because of his/her disability.

23. At all times stated herein, it was "readily achievable" for Defendant to remove some and/or all of the architectural barriers complained of over a reasonable period of time

1 from the date that Defendant initially took possession to meet the affirmative duty to identify
2 and remove architectural barriers where it is readily achievable to do so. In that regard,
3 Defendant could have but did not avail itself of the tax deduction and tax credits provided
4 by Internal Revenue Services ("IRS") codes 44 and 190, which apply to the costs of barrier
5 removal.

6 24. At all time(s) and place, each architectural element as stated herein that did
7 not strictly comply with or substantially comply with the ADAAG minimum requirements
8 constituted an architectural barrier which precluded Plaintiff from full and equal
9 opportunities afforded to non-disabled persons to the goods and services of subject place
10 of public accommodation.

11 25. Plaintiff was and is deterred from returning to the Javadi D.D.S. office so long
12 as architectural barrier(s) complained of that he encountered, as stated herein are not
13 ADAAG compliant. Plaintiff attempted to overcome the deterrence on or about January 25,
14 2024 and May 10, 2024 during scheduled dental appointments.

15 26. At said time(s) and place when Plaintiff encountered the architectural barriers
16 as stated herein, and/or in seeing a barrier(s) and/or attempting to overcome the barriers
17 to gain access experienced any one or combination of physical difficulty, discomfort,
18 embarrassment, stress, strain, fatigue, anger, annoyance and disappointment. This arose
19 from Plaintiff's physical inability to effectively use his upper extremities to easily overcome
20 the architectural barriers as stated herein. This constitutes a denial of full and equal access
21 to the subject public accommodation and a denial of the opportunity to independently enjoy
22 and participate in the opportunities, goods and services offered to non-disabled persons
23 and patrons, invitees and guests.

24 27. Said architectural barrier(s) as stated herein deprived and deterred Plaintiff
25 the same full and equal access that a non-wheelchair user/non disabled person would

1 enjoy while first-floor engaging in the goods, service and opportunities offered at the 666
2 3rd Street building Facility.

3 28. At all times stated herein, the existence of architectural barriers at
4 Defendant's place of public accommodation evidenced "actual notice" of Defendant's intent
5 not to comply with the Americans with Disabilities Act of 1990 either then, now or in the
6 future.

7 29. As a legal result of Defendant's failure to act as a reasonable and prudent
8 public accommodation in identifying, removing or creating architectural barriers, policies,
9 practices and procedures that denied access to Plaintiff and other persons with disabilities,
10 Plaintiff suffered the damages as alleged herein.

11 30. As a result of the denial of equal access to Defendant's Facility due to the
12 acts and omissions of Defendant in owning, operating and maintaining the Facility, Plaintiff
13 suffered violations of his civil rights, including, but not limited to rights under Civil Code
14 §§51, 52, 54, 54.1, and 54.3, et seq., and Plaintiff suffered bodily injury at times stated
15 herein, and/or as a legal result of encountering architectural barriers experienced one or a
16 combination of: difficulty, discomfort and embarrassment.

17 31. Specifically, as a legal result of Defendant's negligence in the design,
18 construction and maintenance of the existing subject building, Plaintiff suffered continuous,
19 repetitive and cumulative trauma to his/her right/left upper extremities while attempting to
20 climb and descend the twenty-seven (27) +/- risers and platform.

21 32. Further, Plaintiff suffered emotional distress, mental distress, mental
22 suffering, mental anguish, which includes, but is not limited to, shame, humiliation,
23 embarrassment, upset, anger, frustration, disappointment and worry, expectedly and
24 naturally associated with a person with physical disabilities encountering architectural
25 barrier(s) as stated herein and being denied access, all to his damages as prayed

1 hereinafter in an amount within the jurisdiction of this court. No claim is being made for
2 mental and emotional distress over and above that is usually associated with the
3 encountering of architectural barriers and legally resulting in adverse experiences. No
4 expert testimony regarding this usual mental and emotional distress will be presented at
5 trial in support of the claim for damages.

6 33. Defendant's failure to remove the architectural barriers complained of herein
7 created, at the time of Plaintiff's first visit to said public accommodation, and continues to
8 create continuous and repeated exposure to substantially the same general harmful
9 conditions which caused Plaintiff harm as stated herein.

10 34. Plaintiff was denied his rights to equal access to a public facility by Defendant
11 because Defendant maintained a public accommodation without access for persons with
12 physical disabilities to its Facility, including but not limited to the two staircases, elevator,
13 signage, and other public areas as stated herein, and continue to the date of filing this
14 complaint to deny equal access to Plaintiff and other persons with physical disabilities in
15 these and other ways.

16 35. Construction alterations, if any, carried out by Defendant has also triggered
17 access requirements under both California law and the Americans with Disabilities Act of
18 1990.

19 36. Defendant may have intentionally undertaken to modify and alter existing
20 building(s) and may have failed to make them comply with accessibility requirements under
21 the requirements of ADAAG and California Building Code.

22 37. Defendant has been negligent in its affirmative duty to identify the
23 architectural barriers complained of herein and negligent in the removal of some or all of
24 said barriers.

25 38. Because of Defendant's violations, Plaintiff and other persons with physical

1 disabilities are unable to use public facilities such as those owned and operated by
2 Defendant on a “full and equal” basis unless such facility is in compliance with the
3 provisions of the Americans with Disabilities Act of 1990, Civil Code §51, Civil Code §54.1
4 and Health & Safety Code §19955, et seq. and other accessibility law as pled herein.
5 Plaintiff seeks an order from this court compelling Defendant to make the subject building
6 accessible to persons with disabilities.

7 39. Plaintiff, as described herein below, seeks injunctive relief to require the
8 subject place of public accommodation to be made accessible to meet the requirements of
9 both California law and the Americans with Disabilities Act of 1990, whichever is more
10 restrictive, so long as Defendant operates the subject place of public accommodation as a
11 public facility.

12 40. Plaintiff believes that even with service of the summons and complaint on
13 Defendant, Defendant will not, under its “continuing obligation” immediately undertake
14 remedial action to identify and remove architectural barriers.

15 41. Plaintiff seeks actual and statutory damages where appropriate for violation
16 of his civil rights on January 13, 2022, January 25, 2024, and May 10, 2024, and any
17 continuing future violation where Plaintiff must overcome the deterrence to seek medical
18 care and seeks statutory damages of not less than \$4,000, pursuant to Civil Code §52(a),
19 for each day after his visit that the trier of fact (court/jury) determines was the date that
20 some or all remedial work should have been completed under the standard that the landlord
21 and tenant had an ongoing duty to identify and remove architectural barriers where it was
22 readily achievable to do so, which deterred or made more physically and emotionally
23 difficult for Plaintiff from returning to the subject public accommodation because of his
24 knowledge and/or belief that neither some or all architectural barriers had been removed
25 and that said premises remains inaccessible to persons with disabilities whether a

1 wheelchair user or otherwise. The acts and omission of Defendant in failing to provide the
2 required accessible public facilities at the time of Plaintiff's visit and injuries, indicate actual
3 and implied malice toward Plaintiff, and despicable conduct carried out by Defendant with
4 a willful and conscious disregard for the rights and safety of Plaintiff and other similarly
5 situated persons, and justify a trebling of damages as provided by Civil Code §§52(a) and
6 54.3, in order to make a more profound example of Defendant to other operators and
7 landlords of other banks and professional buildings and other public facilities, and to punish
8 Defendant and to carry out the purposes of the Civil Code §§ 51, 51.5 and 54.

9 42. At all times stated herein and for post complaint occasions, Plaintiff has an
10 absolute unfettered civil right to return to the public accommodation(s) complained of within
11 thirty (30) day intervals until Defendant removes all architectural barriers under its
12 continuing obligation to identify and remove architectural barriers.

13 43. Plaintiff is informed and believes and therefore alleges that Defendant caused
14 the subject building(s) to be constructed, altered and maintained in such a manner that
15 persons with physical disabilities were denied full and equal access to, within and
16 throughout said building(s) of the public accommodation and were denied full and equal
17 use of said public facilities. Furthermore, on information and belief, Defendant has
18 continued to maintain and operate said public accommodation and/or its building(s) in such
19 conditions up to the present time, despite actual and constructive notice to Defendant that
20 the configuration of Building and/or its building(s) is in violation of the civil rights of persons
21 with physical disabilities, such as Plaintiff and other members of the disability community.
22 Such construction, modification, ownership, operation, maintenance and practices of such
23 public facilities are in violation of Civil Code §§51, 51.5 and 54, Health and Safety Code
24 §19955, and the ADA, 42 U.S.C. §12101, et seq.

25 44. Defendant's actual and constructive notice that the physical configuration of

1 the facilities including, but not limited to, architectural barriers constituting subject place of
2 public accommodation and/or building(s) was in violation of the civil rights of persons with
3 physical disabilities, such as Plaintiff, includes, but is not limited to, coming into contact
4 with public accommodations with accessible elements and facilities since January 26,
5 1991, communications with invitees and guests, possibly sponsors of conferences, the
6 banking industry, owners of other restaurants, hotels, motels and businesses, notices they
7 obtained from governmental agencies upon modification, improvement, or substantial
8 repair of the subject premises and other properties owned by Defendant, newspaper
9 articles and trade publications regarding the Americans with Disabilities Act of 1990 and
10 other access laws, public service announcements by former U.S. Attorney General Janet
11 Reno between 1993 and 2000, and other similar information. Defendant's failure, under
12 state and federal law, to make the subject place of public accommodation accessible is
13 further evidence of Defendant's conscious disregard for the rights of Plaintiff and other
14 similarly situated persons with disabilities. Despite being informed of such effect on Plaintiff
15 and other persons with physical disabilities due to the lack of accessible facilities,
16 Defendant knowingly and willfully refused to take any steps to rectify the situation and to
17 provide full and equal access for Plaintiff and other persons with physical disabilities to the
18 subject place of public accommodation. Defendant has continued such practices, in
19 conscious disregard for the rights of Plaintiff and other persons with physical disabilities,
20 up to the date of filing of this complaint, and continuing thereon. Said conduct, with
21 knowledge of the effect it was and is having on Plaintiff and other persons with physical
22 disabilities, constitutes despicable conduct in conscious disregard of the rights and safety
23 of Plaintiff and of other similarly situated persons, justifying the imposition of treble
24 damages per Civil Code §§52 and 54.3.

25 45. Plaintiff and the disability community consisting of persons with disabilities,

1 would, could and will return to the subject public accommodation when it is made
2 accessible to persons with disabilities.

3
4 **I. FIRST CAUSE OF ACTION FOR DENIAL OF ACCESS BY A PUBLIC
5 ACCOMMODATION IN VIOLATION OF THE AMERICANS WITH DISABILITIES ACT
6 OF 1990 (42 U.S.C. §12101 et seq.)**

7 46. Plaintiff repleads and incorporates by reference, as if fully set forth again
8 herein, the allegations contained in paragraphs 1 through 45 of this complaint.

9 47. Pursuant to law, in 1990, the United States Congress made findings per 42
10 U.S.C. §12101 regarding persons with physical disabilities, finding that laws were needed
11 to more fully protect:

12 Some 43 million Americans with one or more physical or
13 mental disabilities; [that] historically society has tended to
14 isolate and segregate individuals with disabilities; [that] such
15 forms of discrimination against individuals with disabilities
16 continue to be a serious and pervasive social problem; [that]
17 the nation's proper goals regarding individuals with disabilities
18 are to assure equality of opportunity, full participation,
19 independent living and economic self-sufficiency for such
20 individuals; [and that] the continuing existence of unfair and
21 unnecessary discrimination and prejudice denies people with
22 disabilities the opportunity to compete on an equal basis and
23 to pursue those opportunities for which our free society is
24 justifiably famous.

25 48. Congress stated as its purpose in passing the Americans with Disabilities Act
of 1990 (42 U.S.C. §12102):

It is the purpose of this act (1) to provide a clear and
comprehensive national mandate for the elimination of
discrimination against individuals with disabilities; (2) to provide
clear, strong, consistent, enforceable standards addressing
discrimination against individuals with disabilities; (3) to ensure
that the Federal government plays a central role in enforcing
the standards established in this act on behalf of individuals
with disabilities; and (4) to invoke the sweep of Congressional
authority, including the power to enforce the 14th Amendment
and to regulate commerce, in order to address the major areas
of discrimination faced day to day by people with disabilities.

1 49. As part of the Americans with Disabilities Act of 1990, Public Law 101-336
2 (hereinafter the “ADA”), Congress passed “Title III - Public Accommodations and Services
3 Operated by Private Entities” (Section 301 42 U.S.C. §12181, et seq.). Among the public
4 accommodations identified for purposes of this title was:

5 (7) PUBLIC ACCOMMODATION - The following private
6 entities are considered public accommodations for purposes of this
7 title, if the operations of such entities affect commerce –

8 (F) a laundromat, dry-cleaner, bank, barber shop,
9 beauty parlor, travel service, shoe repair service, funeral parlor, gas
10 station, office of an accountant or lawyer, pharmacy, insurance
11 office, professional office of a health care provider, hospital or other
12 service establishment;

13 42 U.S.C. §12181(7)(F)

14 50. Pursuant to §302, 42 U.S.C. §12182, “No individual shall be discriminated
15 against on the basis of disability in the full and equal enjoyment of the goods, services,
16 facilities, privileges, advantages, or accommodations of any place of public accommodation
17 by any person who owns, leases, or leases to, or operates a place of public
18 accommodation.”

19 51. The specific prohibitions against discrimination set forth in §302(b)(2)(a), 42
20 U.S.C. §12182(b)(2)(a) are:

21 (i) the imposition or application of eligibility criteria that
22 screen out or tend to screen out an individual with a disability or any
23 class of individuals with disabilities from fully and equally enjoying
24 any goods, services, facilities, privileges, advantages, or
25 accommodations, unless such criteria can be shown to be
26 necessary for the provision of the goods, services, facilities,
27 privileges, advantages, or accommodations being offered;

28 (ii) a failure to make reasonable modifications in policies,
29 practices, or procedures, when such modifications are necessary to
30 afford such goods, services, facilities, privileges, advantages or
31 accommodations to individuals with disabilities, unless the entity
32 can demonstrate that making such modifications would

1 fundamentally alter the nature of such goods, services, facilities,
2 privileges, advantages, or accommodations;

3 (iii) a failure to take such steps as may be necessary to
4 ensure that no individual with a disability is excluded, denied
5 services, segregated or otherwise treated differently than other
6 individuals because of the absence of auxiliary aids and services,
7 unless the entity can demonstrate that taking such steps would
8 fundamentally alter the nature of the good, service, facility, privilege,
9 advantage, or accommodation being offered or would result in an
10 undue burden;

11 (iv) a failure to remove architectural barriers, and
12 communication barriers that are structural in nature, in existing
13 facilities . . . where such removal is readily achievable; and

14 (v) where an entity can demonstrate that the removal of a
15 barrier under clause (iv) is not readily achievable, a failure to make
16 such goods, services, facilities, privileges, advantages or
17 accommodations available through alternative methods if such
18 methods are readily achievable.

19 The acts of Defendant set forth herein were a violation of Plaintiff's rights under the
20 ADA, Public Law 101-336, and the regulations promulgated thereunder, 28 CFR Part 36,
21 et seq. - Effective January 31, 1993, the standards of the ADA were also incorporated into
22 California Civil Code §51, making available the damage remedies incorporated into Civil
23 Code §51 and 52(a) and 54.3.

24 52. The removal of the barriers complained of by Plaintiff as hereinabove alleged
25 were at all times after January 26, 1992 "readily achievable" as to the subject public
accommodation pursuant to 42 U.S.C. §12182 (b)(2)(A)(i)-(iv). On information and belief,
if the removal of all the barriers complained of herein together was not "readily achievable,"
the removal of each individual barrier complained of herein was "readily achievable." On
information and belief, Defendant's failure to remove said barriers was likewise due to
discriminatory practices, procedures and eligibility criteria, as defined by 42 U.S.C. §12182
(b)(2)(A)(i) and (ii).

1 53. Per 42 U.S.C. §12181 (9), the term “readily achievable” means “easily
2 accomplishable and able to be carried out without much difficulty or expense.” The statute
3 defines relative “expense” in part in relation to the total financial resources of the entities
4 involved. Plaintiff alleges that properly repairing, modifying, or altering each of the items
5 that Plaintiff complains of herein were and are “readily achievable” by Defendant under the
6 standards set forth under §301(9) of the Americans with Disabilities Act. Furthermore, if it
7 was not “readily achievable” for Defendant to remove each of such barriers, Defendant
8 have failed to make the required services available through alternative methods which were
9 readily achievable.

10 54. On information and belief, construction work on, and modifications of, the
11 subject building(s) of place of public accommodation occurred after the compliance date
12 for the Americans with Disabilities Act, January 26, 1992, independently triggering access
13 requirements under Title III of the ADA.

14 55. Pursuant to the Americans with Disabilities Act of 1990, 42 U.S.C. §12188,
15 et seq., Plaintiff is entitled to the remedies and procedures set forth in §204(a) of the Civil
16 Rights Act of 1964, 42 U.S.C. 2000(a)-3(a), as Plaintiff is being subjected to discrimination
17 on the basis of disability in violation of this title or have reasonable grounds for believing
18 that Plaintiff is about to be subjected to discrimination in violation of §302. Plaintiff is
19 deterred from returning to or making use of the public facilities complained of herein so
20 long as the premises and Defendant’s policies bar full and equal use by persons with
21 physical disabilities.

22 56. 42 U.S.C. 12188 (a)(1) states: “Nothing in this section shall require a person
23 with a disability to engage in a futile gesture if such person has actual notice that a person
24 or organization covered by this title does not intend to comply with its provisions.” Pursuant
25 to this section, on information and belief Plaintiff alleges that Defendant has continued to

1 violate the law and deny the rights of Plaintiff and of other persons with physical disabilities
 2 to access this public accommodation. Pursuant to 42 USC §12188(a)(2), "In cases of
 3 violations of §302(b)(2)(A)(iv), injunctive relief shall include an order to alter facilities to
 4 make such facilities readily accessible, to and usable by individuals with disabilities to the
 5 extent required by this title."

6 57. Plaintiff seeks relief pursuant to remedies set forth in §204(a) of the Civil
 7 Rights Act of 1964 (42 U.S.C. 2000(a)-3(a)), and pursuant to federal regulations adopted
 8 to implement the Americans with Disabilities Act of 1990, including but not limited to an
 9 order granting injunctive relief and attorneys' fees. Plaintiff will seek attorneys' fees
 10 conditioned upon being deemed to be the prevailing party.

11
 12 **II. SECOND CAUSE OF ACTION FOR DENIAL OF FULL AND EQUAL ACCESS IN**
 13 **VIOLATION OF CALIFORNIA CIVIL CODE §§ 54, 54.1 AND 54.3, et seq.**

14 58. Plaintiff repleads and incorporates by reference as if fully set forth again
 15 herein, the allegations contained in Paragraphs 1 through 57 of this complaint.

16 59. At all times relevant to this action, California Civil Code §54 has provided that
 17 persons with physical disabilities are not to be discriminated against because of physical
 18 handicap or disability. This section provides that:

19 (a) Individuals with disabilities . . . have the same rights as the
 20 general public to full and free use of the streets, highways, sidewalks,
 21 walkways, public buildings, medical facilities, including hospitals,
 clinics, and physicians' offices, and other public places.

22 60. California Civil Code §54.1 provides that persons with disabilities shall not be
 23 denied full and equal access to places of public accommodation or facilities:

24 (a)(1) Individuals with disabilities shall be entitled to full and equal
 25 access, as other members of the general public, to
 accommodations, advantages, facilities, medical facilities, including
 hospitals, clinics, and physicians' offices, and privileges of all

1 common carriers, airplanes, motor vehicles, railroad trains,
2 motorbuses, streetcars, boats, or any other public conveyances or
3 modes of transportation (whether private, public, franchised,
4 licensed, contracted, or otherwise provided), telephone facilities,
5 adoption agencies, private schools, hotels, lodging places, places
6 of public accommodation, amusement or resort, and other places to
7 which the general public is invited, subject only to the conditions and
8 limitations established by law, or state or federal regulation, and
9 applicable alike to all persons. *Civil Code §54.1(a)(1)*

61. California Civil Code §54.1 further provides that a violation of the Americans
with Disabilities Act of 1990 constitutes a violation of section 54.1:

9 (d) A violation of the right of an individual under the Americans with
10 Disabilities Act of 1990 (Public Law 101-336) also constitutes a
11 violation of this section, and nothing in this section shall be
12 construed to limit the access of any person in violation of that act.
13 *Civil Code §54.1(d)*

62. Plaintiff is a person within the meaning of Civil Code §54.1 whose rights have
13 been infringed upon and violated by the Defendant as prescribed by Civil Code §§54 and
14 54.1. Each specific architectural barrier which Defendant knowingly and willfully fail and
15 refuse to remove constitutes a separate act in violation of Civil Code §§54 and 54.1.
16 Plaintiff has been and continues to be denied full and equal access to the subject place of
17 public accommodation. As a legal result, Plaintiff is entitled to seek damages pursuant to a
18 court or jury determination, in accordance with California Civil Code §54.3(a) for each day
19 on which he visited or have been deterred from visiting the subject place of public
20 accommodation because of his knowledge and belief that the subject building is
21 inaccessible to persons with disabilities.

22 California Civil Code §54.3(a) provides:

23 Any person or persons, firm or corporation, who denies or interferes
24 with admittance to or enjoyment of the public facilities as specified
25 in Sections 54 and 54.1 or otherwise interferes with the rights of an
individual with a disability under Sections 54, 54.1 and 54.2 is liable
for each offense for the actual damages and any amount as may be

1 determined by a jury, or the court sitting without a jury, up to a
2 maximum of three times the amount of actual damages but in no
3 case less than . . . one thousand dollars (\$1,000) and . . . attorney's
4 fees as may be determined by the court in addition thereto, suffered
by any person denied any of the rights provided in Sections 54, 54.1
and 54.2. *Civil Code §54.3(a)*

5 63. On or about January 13, 2022, January 25, 2024, and May 10, 2024, and
6 deterrence occasion(s) Plaintiff suffered violations of Civil Code §§54 and 54.1 in that
7 Plaintiff was denied access to two (2) staircases, elevator and other public facilities as
8 stated herein at the subject place of public accommodation and on the basis that Plaintiff
9 was a person with physical disabilities.

10 64. As a result of the denial of equal access to Defendant's Facility due to the
11 acts and omissions of Defendant in owning, operating and maintaining the Facility, Plaintiff
12 suffered violations of his civil rights, including, but not limited to rights under Civil Code
13 §§51, 52, 54, 54.1, and 54.3, et seq., and/or as a legal result of encountering architectural
14 barriers experienced one or a combination of: difficulty, discomfort and embarrassment.
15 Each, or in combination, is a form of injury. Specifically, as a legal result of Defendant's
16 negligence in the design, construction and maintenance of its Facility, Plaintiff suffered
17 continuous, repetitive and cumulative trauma to his upper extremities while attempting to
18 climb and descend twenty-seven (27) +/- riser staircase.

19 65. Further, Plaintiff suffered emotional distress, mental distress, mental
20 suffering, mental anguish, which includes, but is not limited to, shame, humiliation,
21 embarrassment, upset, anger, frustration, disappointment and worry, expected and
22 naturally associated with a person with physical disabilities encountering architectural
23 barrier(s) as stated herein and being denied access, all to his damages as prayed
24 hereinafter in an amount within the jurisdiction of this court. No claim is being made for
25 mental and emotional distress over and above that is usually associated with the

1 encountering of architectural barriers and legally resulting in adverse experiences. No
 2 expert testimony regarding this usual mental and emotional distress will be presented at
 3 trial in support of the claim for damages.

4 66. Plaintiff has been damaged by Defendant and its wrongful conduct and seeks
 5 the relief that is afforded by Civil Code §§54 and 54.1, 54.3 for violation of Plaintiff's rights
 6 as a person or an entity that represents persons with physical disabilities on or about
 7 January 13, 2022, and on a continuing basis since then, including statutory damages, a
 8 trebling of all of actual damages, general and special damages available pursuant to §54.3
 9 of the Civil Code according to proof.

10 67. As a result of Defendant's acts and omissions in this regard, Plaintiff has been
 11 required to incur legal expenses and hire attorneys in order to enforce Plaintiff's rights and
 12 enforce the provisions of the law protecting access for persons with physical disabilities
 13 and prohibiting discrimination against persons with physical disabilities. Pursuant to the
 14 provisions of Civil Code §54.3, Plaintiff therefore will seek recovery in this lawsuit for all
 15 reasonable attorneys' fees and costs incurred if deemed the prevailing party. Additionally,
 16 Plaintiff's lawsuit is intended not only to obtain compensation for damages to Plaintiff, but
 17 also to compel the Defendant to make their facilities accessible to all members of the public
 18 with disabilities, justifying public interest attorneys' fees, if deemed the prevailing party,
 19 pursuant to the provisions of §1021.5 of the Code of Civil Procedure.

20 **III. THIRD CAUSE OF ACTION FOR DENIAL OF ACCESSIBLE SANITARY**
 21 **FACILITIES IN VIOLATION OF HEALTH & SAFETY CODE §19955, ET. SEQ.**

22 68. Plaintiff repleads and incorporates by reference, as if fully set forth again
 23 herein, the allegations contained in paragraphs 1 through 67 of this complaint.

24 69. Health & Safety Code §19955 provides in pertinent part:

25 The purpose of this part is to insure that public accommodations or
 facilities constructed in this state with private funds adhere to the

1 provisions of Chapter 7 (commencing with Sec. 4450) of Division 5
2 of Title 1 of the Government Code. For the purposes of this part
3 “public accommodation or facilities” means a building, structure,
4 facility, complex, or improved area which is used by the general
5 public and shall include auditoriums, hospitals, theaters, restaurants,
6 hotels, motels, stadiums, and convention centers. When sanitary
7 facilities are made available for the public, clients or employees in
8 such accommodations or facilities, they shall be made available for
9 the handicapped.

10 70. Health & Safety Code §19956, which appears in the same chapter as
11 §19955, provides in pertinent part, “accommodations constructed in this state shall conform
12 to the provisions of Chapter 7 (commencing with Sec. 4450) of Division 5 of Title 1 of the
13 Government Code” Health & Safety Code §19956 was operative July 1, 1970, and is
14 applicable to all public accommodations constructed or altered after that date. On
15 information and belief, portions of the subject place of public accommodation and/or of the
16 building(s) were constructed and/or altered after July 1, 1970, and substantial portions of
17 the subject place of public accommodation and/or the building(s) had alterations, structural
18 repairs, and/or additions made to such public accommodations after July 1, 1970, thereby
19 requiring said public accommodation and/or building to be subject to the requirements of
20 Part 5.5, §19955, et seq., of the Health & Safety Code upon such alteration, structural
21 repairs or additions per Health & Safety Code §19959.

22 71. Pursuant to the authority delegated by Government Code §4450, et seq, the
23 State Architect promulgated regulations for the enforcement of these provisions. Effective
24 July 1, 1982, Title 24 of the California Building Standards Code adopted the California State
25 Architect’s Regulations and these regulations must be complied with as to any alterations
and/or modifications of the subject place of public accommodation and/or the building(s)
occurring after that date. Construction changes occurring prior to this date but after July 1,
1970 triggered access requirements pursuant to the “ASA” requirements, the American
Standards Association Specifications, A117.1-1961. On information and belief, at the time

1 of the construction and modification of said building, all buildings and facilities covered were
2 required to conform to each of the standards and specifications described in the American
3 Standards Association Specifications and/or those contained in the California Building
4 Code.

5 72. The Facility is a “public accommodation or facility” within the meaning of
6 Health & Safety Code §19955, et seq.

7 73. As a result of the actions and failure to act of Defendant and as a result of the
8 failure to provide proper and legally handicapped-accessible public facilities, Plaintiff was
9 denied his rights to full and equal access to public facilities and suffered a loss of his civil
10 rights and his rights as a person with physical disabilities to full and equal access to public
11 facilities.

12 74. As a result of Defendant’s acts and omissions in this regard, Plaintiff has been
13 required to incur legal expenses and hire attorneys in order to enforce Plaintiff’s civil rights
14 and enforce provisions of the law protecting access for the persons with physical disabilities
15 and prohibiting discrimination against the persons with physical disabilities, and to take
16 such action both in Plaintiff’s own interests and in order to enforce an important right
17 affecting the public interest. Plaintiff, therefore, seeks in this lawsuit the recovery of all
18 reasonable attorneys’ fees incurred, pursuant to the provisions of the Code of Civil
19 Procedure §1021.5. Plaintiff additionally seeks attorneys’ fees pursuant to Health & Safety
20 Code §19953 and Civil Code §§54.3 and/or in the alternative, Plaintiff will seek attorneys’
21 fees, costs and litigation expenses pursuant to §204(a) of the Civil Rights Act of 1964 (42
22 U.S.C. 200(a)-3(a)). Plaintiff will seek attorneys’ fees conditioned upon being deemed to
23 be the prevailing party.

24 75. Plaintiff seeks injunctive relief for an order compelling Defendant to make the
25 subject place of public accommodation readily accessible to and usable by persons with

1 disabilities.

2
3 **IV. FOURTH CAUSE OF ACTION FOR DENIAL OF ACCESS TO FULL AND**
4 **EQUAL ACCOMMODATIONS, ADVANTAGES, FACILITIES, PRIVILEGES AND/OR**
5 **SERVICES IN VIOLATION OF CALIFORNIA CIVIL CODE §51, ET SEQ. (THE UNRUH**
6 **CIVIL RIGHTS ACT)**

7 76. Plaintiff repleads and incorporates by reference, as if fully set forth again
8 herein, the allegations contained in paragraphs 1 through 75 of this complaint.

9 77. Defendant's actions and omissions and failure to act as a reasonable and
10 prudent public accommodation in identifying, removing and/or creating architectural
11 barriers, policies, practices and/or procedures violates §51 of the Civil Code, the Unruh
12 Civil Rights Act. The Unruh Act provides:

13 This section shall be known, and may be cited, as the Unruh
14 Civil Rights Act.

15 All persons within the jurisdiction of this state are free and
16 equal, and no matter what their sex, race, color, religion, ancestry,
17 national origin, or disability are entitled to the full and equal
18 accommodations, advantages, facilities, privileges, or services in all
19 business establishments of every kind whatsoever.

20 This section shall not be construed to confer any right or
21 privilege on a person that is conditioned or limited by law or that is
22 applicable alike to persons of every sex, color, race, religion,
23 ancestry, national origin, or disability.

24 Nothing in this section shall be construed to require any
25 construction, alteration, repair, structural or otherwise, or modification
of any sort whatsoever, beyond that construction, alteration, repair, or
modification that is otherwise required by other provisions of law, to
any new or existing establishment, facility, building, improvement, or
any other structure . . . nor shall anything in this section be construed
to augment, restrict, or alter in any way the authority of the State
Architect to require construction, alteration, repair, or modifications
that the State Architect otherwise possesses pursuant to other . . .
laws.

1 A violation of the right of any individual under the Americans
2 with Disabilities Act of 1990 (Public Law 101-336) shall also constitute
3 a violation of this section.

4 As the Unruh Act incorporates violations of the Americans with Disabilities Act of
5 1990, the “intent” of the Defendants in not complying with barrier removal is not an issue.
6 Hence, the failure on the part of Defendant as reasonable and prudent public
7 accommodations, in acting or failing to act to identify and remove barriers can be construed
8 as a “negligent per se” act of Defendant.

9 76. The acts and omissions of Defendant stated herein are discriminatory in
10 nature and in violation of Civil Code §51.5:

11 No business establishment of any kind whatsoever shall
12 discriminate against, boycott or blacklist, refuse to buy from, sell to,
13 or trade with any person in this state because of the race, creed,
14 religion, color, national origin, sex, or disability of the person or of
15 the person’s partners, members, stockholders, directors, officers,
16 managers, superintendents, agents, employees, business
17 associates, suppliers, or customers.

18 As used in this section, “person” includes any person, firm
19 association, organization, partnership, business trust, corporation,
20 limited liability company, or company.

21 Nothing in this section shall be construed to require any
22 construction, alteration, repair, structural or otherwise, or
23 modification of any sort whatsoever, beyond that construction,
24 alteration, repair or modification that is otherwise required by other
25 provisions of law, to any new or existing establishment, facility,
building, improvement, or any other structure . . . nor shall anything
in this section be construed to augment, restrict or alter in any way
the authority of the State Architect to require construction, alteration,
repair, or modifications that the State Architect otherwise possesses
pursuant to other laws.

77. Defendant’s acts and omissions as specified have denied to the Plaintiff full
and equal accommodations, advantages, facilities, privileges and services in a business
establishment, on the basis of physical disability, in violation of Civil Code §§51 and 51.5,

1 the Unruh Civil Rights Act. Furthermore, pursuant to the 1992 amendment to California
2 Civil Code §51, "A violation of the right of any individual under the Americans with
3 Disabilities Act of 1990 (Public Law 101-336) shall also constitute a violation of this section."
4 Plaintiff accordingly incorporates the entirety of his above cause of action for violation of
5 the Americans with Disabilities Act at, et seq., as if repled herein.

6 78. As a result of the denial of equal access to Defendant's Facility due to the
7 acts and omissions of Defendant in owning, operating and maintaining the Facility, Plaintiff
8 suffered violations of Plaintiff's civil rights, including, but not limited to rights under Civil
9 Code §§51, 52, 54, 54.1, and 54.3, et seq., and Plaintiff suffered bodily injury at time(s)
10 stated herein, and/or as a legal result of encountering architectural barriers experienced
11 one or a combination of: difficulty, discomfort, embarrassment and trauma to his upper
12 extremities while attempting to climb and descend a twenty-seven (27) +/- riser staircase.

13 79. Further, Plaintiff suffered emotional distress, mental distress, mental
14 suffering, mental anguish, which includes, but is not limited to, shame, humiliation,
15 embarrassment, upset, anger, frustration, disappointment and worry, expectedly and
16 naturally associated with a person with physical disabilities encountering architectural
17 barriers as stated herein and being denied access, all to his damages as prayed hereinafter
18 in an amount within the jurisdiction of this court. No claim is being made for mental and
19 emotional distress over and above that is usually associated with the encountering of
20 architectural barriers and legally resulting in adverse experiences. No expert testimony
21 regarding this usual mental and emotional distress will be presented at trial in support of
22 the claim for damages.

23 80. Plaintiff is entitled to the rights and remedies of §52(a) of the Civil Code,
24 including trebling of actual damages (defined by §52(h) of the Civil Code to mean "special
25 and general damages"), as well as to reasonable attorneys' fees and costs, as is allowed

1 by statute, according to proof if deemed to be the prevailing party.

2 **PRAYER:**

3 Plaintiff prays that this court award damages and provide relief as follows:

4 **I. PRAYER FOR FIRST CAUSE OF ACTION FOR DENIAL OF ACCESS BY A**
5 **PUBLIC ACCOMMODATION IN VIOLATION OF THE AMERICANS WITH DISABILITIES**
6 **ACT OF 1990 (42 U.S.C. §1 2101, et seq.)**

7 1. For injunctive relief, compelling Defendant to make the subject building,
8 located at 666 3rd Street, San Rafael, California, readily accessible to and usable by
9 individuals with disabilities, per 42 U.S.C §12181, et seq., and to make reasonable
10 modifications in policies, practice, eligibility criteria and procedures so as to afford full
11 access to the goods, services, facilities, privileges, advantages and accommodations being
12 offered;

13 2. For attorneys' fees, litigation expenses and costs of suit, if Plaintiff is deemed
14 the prevailing party; and

15 3. For such other and further relief as the court may deem proper.

16 **II. PRAYER FOR SECOND CAUSE OF ACTION FOR DENIAL OF FULL AND**
17 **EQUAL ACCESS IN VIOLATION OF CALIFORNIA CIVIL CODE §§54, 54.1 AND 54.3,**
18 **ET SEQ.**

19 1. For injunctive relief, compelling Defendant to make the subject building
20 located at 666 3rd Street, San Rafael, California, readily accessible to and usable by
21 individuals with disabilities, per state law.

22 2. Actual and/or statutory damages as afforded by Civil Code §54.3 for the date
23 of incident and for each occasion on which Plaintiff was deterred from returning to the
24 subject public accommodation;

25 3. Attorneys' fees pursuant to Civil Code §54.3 and Code of Civil Procedure

§1021.5, if Plaintiffs are deemed the prevailing party;

4. Treble damages pursuant to Civil Code §54.3;

5. General damages according to proof;

6. For all costs of suit;

7. Prejudgment interest pursuant to Civil Code §3291; and

8. Such other and further relief as the court may deem just and proper.

**III. PRAYER FOR THIRD CAUSE OF ACTION FOR DENIAL OF ACCESSIBLE
SANITARY FACILITIES IN VIOLATION OF HEALTH & SAFETY CODE §19955, ET.
SEQ.**

1. For injunctive relief, compelling Defendant to make the subject building,
located at 666 3rd Street, San Rafael, California, readily accessible to and usable by
individuals with disabilities, per state law;

2. For attorneys' fees pursuant to Code of Civil Procedure §1021.5, and/or,
alternatively, Health & Safety Code §19953, if Plaintiff is deemed the prevailing party;

3. For all costs of suit;

4. For prejudgment interest pursuant to Civil Code §3291;

5. Such other and further relief as the court may deem just and proper.

**IV. PRAYER FOR FOURTH CAUSE OF ACTION FOR DENIAL OF ACCESS
TO FULL AND EQUAL ACCOMMODATIONS, ADVANTAGES, FACILITIES,
PRIVILEGES AND/OR SERVICES IN VIOLATION OF CALIFORNIA CIVIL CODE §51,
ET SEQ. (THE UNRUH CIVIL RIGHTS ACT)**

1. For injunctive relief, compelling Defendant to make the subject building,
located at 666 3rd Street, San Rafael, California, readily accessible to and usable by
individuals with disabilities, per state law;

2. Actual and /or statutory damages as afforded by Civil Code §52(a) for the

1 date of incident and for each occasion on which Plaintiff was deterred from returning to the
2 subject public accommodation;

3 3. Attorneys' fees pursuant to Civil Code §52(a), if Plaintiff is deemed the
4 prevailing party;

5 4. General damages according to proof;

6 5. Treble damages pursuant to Civil Code §52(a);

7 6. For all costs of suit;

8 7. Prejudgment interest pursuant to Civil Code §3291; and

9 8. Such other and further relief as the court may deem just and proper
10

11 Dated: June 11, 2024

VAUGHAN & ASSOCIATES LAW OFFICE, APC

12 By: /s/ Cris C. Vaughan

13 CRIS C. VAUGHAN

14 Attorney for Plaintiff Thomas E. Frankovich
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18 **DEMAND FOR JURY**

19 Plaintiff hereby demands a jury for all claims for which a jury is permitted.

20 Dated: June 11, 2024

VAUGHAN & ASSOCIATES LAW OFFICE, APC

21 By: /s/ Cris C. Vaughan

22 CRIS C. VAUGHAN

23 Attorney for Plaintiff Thomas E. Frankovich
24
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